Title: TEAR INDICATOR FOR TAPE

App. No.: 10/714,208

Attorney Docket No.: 2547.001

Examiner: Daniel Zirker

Art Group: 1771

REMARKS

Claims 1-18 stand rejected under 35 U.S.C. § 112, second paragraph. According

to the Office Action of August 31, 2005, Claims 1-18 are "indefinite for failing to

particularly point out and distinctly claim the subject matter which the applicants regard

as the invention." Without admitting that Claims 1-18 fail to comply with 35 U.S.C. §

112, second paragraph, the Applicant cancels Claims 1-18, and presents herewith new

added Claims 19-29.

In rejecting Claims 1-18, the Office Action states "(I)n claim 1, lines 2 and 3, it is

suggested that the claim state whether or not the adhesive and the at least one color

former are in the same layer or different layers, and if the latter what is the specific order

of the tape layers."

"The essential inquiry pertaining to this requirement (35 U.S.C. § 112, second

paragraph) is whether the claims set out and describe a particular subject matter with a

reasonable degree of clarity and particularity. Definiteness of claim language must be

analyzed, not in a vacuum, but in light of: (A) The content of the particular application

disclosure; (B) The teachings of the prior art; and (C) The claim interpretation that would

be given by one possessing the ordinary level of skill in the pertinent art at the time the

invention was made." MPEP Section 2173.02.

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The application disclosure states that the adhesive and the color former may be

in the same layer or in different layers. There is no specific required order of the layers

according to the Specification. The Examiner's attention is called to page 3, line 21

through page 4, line 9 of the Specification. See also drawing Figs. 1-4, and particularly

note the combination layer 5 of Fig. 3 and the combination layer 6 of Fig. 4. It is

respectfully submitted that Claim 1 and Claim 10 as originally submitted are not

indefinite in view of the application disclosure, particularly as the claims would be

interpreted by one possessing an ordinary level skill in the pertinent art. Further, the

rejection would require the applicant to limit the invention beyond what the applicant is

entitled to claim, since the invention specification discloses embodiments that are

broader than the suggested amendment to the claim.

Similarly, the Office Action states that it is suggested to use "mixed" in place of

combined. See Claim 3, now cancelled, and Claim 21, now cancelled. However, the

Specification states at page 4, line 8 that the materials are "combined." One skilled in

the art will understand this term, and it is not indefinite.

The applicant has eliminated the phrase "at least one" from the claims (i.e., "at

least one color former"). The use of the transitional term "comprising" in the preamble

renders the use of the phrase "at least one" unnecessary.

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It is respectfully submitted that Claims 19-29 are in condition for allowance.

Review and allowance at the earliest possible date is requested.

Respectfully submitted,

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